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**TITLE 326 AIR POLLUTION CONTROL BOARD**

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**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #06-603

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING VOLATILE ORGANIC COMPOUNDS FOR AUTOMOBILE REFINISHING OPERATIONS IN INDIANA****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to [326 IAC 8-10](#) concerning automobile refinishing operations in Indiana. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 8-10](#).

**Authority:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#); [IC 13-17-3-12](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

Under the Clean Air Act, the United States Environmental Protection Agency (U.S. EPA) is responsible for: (1) establishing ambient air quality standards to protect the public health and welfare; (2) determining which areas of the country have air quality that does not meet those standards; and (3) overseeing states' efforts to develop and implement plans to improve air quality in those areas. The Clean Air Act establishes basic requirements and procedures for the clean air planning process, but U.S. EPA issues more specific guidance to help states, citizens, businesses and local governments comply with the Clean Air Act's requirements. U.S. EPA also promulgates rules to meet the Clean Air Act requirements.

In the April 30, 2004, Federal Register (69 FR 23858), the U.S. EPA published air quality designations and classifications for all areas in the United States for the eight-hour ozone National Ambient Air Quality Standard (8-hour standard), including the designation of 24 Indiana counties, entirely or in part, as nonattainment for the standard. The nonattainment designation became effective on June 15, 2004. The 8-hour ozone nonattainment designations have essentially replaced the former remaining 1-hour ozone nonattainment designations. Each state must put control measures into place in order to bring these areas into attainment by June 15, 2009. Indiana has submitted several ozone redesignation requests to U.S. EPA for approval and plans to submit requests for the remaining counties soon; however, further controls will help keep these counties in attainment once they are redesignated and will also help eliminate Indiana's contribution to other states' nonattainment areas.

Because volatile organic compounds (VOCs) contribute to the formation of ozone, it is important to control VOCs in order to comply with the 8-hour ozone standard. In an effort to assist states in the Midwest Regional Planning Organization (MRPO) in the development of SIPs to comply with the federal requirements, the Lake Michigan Air Directors Consortium (LADCO) has been working with states to identify and recommend regional controls that would help states bring areas back into attainment for the 8-hour ozone standard. The MRPO includes Illinois, Indiana, Michigan, Ohio, and Wisconsin.

The MRPO states have discussed applying certain VOC control measures to all counties in the region in order to provide a general benefit to all nonattainment areas. LADCO has evaluated potential reductions from various regulatory options that could be adopted on a multistate basis in the region. Based on discussions with other states in the MRPO and information provided by LADCO, IDEM proposes to extend the existing automobile refinishing rules currently effective in Clark, Floyd, Lake, and Porter counties to the rest of the state as part of a larger regional effort. This rule is part of a larger group of VOC control rules that have been agreed to by the LADCO states to address regional ozone and particulate matter nonattainment. Other VOC control rules will include architectural and industrial maintenance (AIM) coatings, consumer products, degreasing, portable fuel containers, and stage I vapor recovery.

Automobile refinishing includes the application of coatings subsequent to original equipment manufacture. Vehicles included in this category are passenger cars, trucks, vans, motorcycles, and other mobile equipment capable of being driven or drawn on the highway. The steps involved in automobile refinishing include surface preparation, surface painting, and equipment cleaning. Emissions occur at all of these stages due to evaporation of the solvents in the primers, paints, and other coatings and in the cleaning solutions. The automobile refinishing rule at [326 IAC 8-10](#) affects automobile refinishing operations performed in the following types of shops: auto body and repair shops; new car dealer repair and paint shops; fleet operator repair and paint shops; and any other facility that coats vehicles under Standard Industrial Classification (SIC) Code 7532, as well as manufacturers and distributors of automobile refinishing coatings. Besides VOC content limits, [326 IAC 8-10](#) also includes work practice standards and training requirements.

Indiana's existing automobile refinishing rule at [326 IAC 8-10](#) currently applies to four counties: Clark, Floyd,

Lake, and Porter. These counties were 1-hour ozone nonattainment areas, and the rule was promulgated to assist bringing these counties into attainment. The existing rule is based on both emission limits from the federal automobile refinish coatings rule at 40 CFR 59, Subpart B, and work practices from the Ozone Transport Commission (OTC) model rule for automobile refinishing operations. The OTC is a multistate organization created under the Clean Air Act (CAA) that advises U.S. EPA on transport issues and develops and implements regional solutions to the ground level ozone problem in the Northeast and Mid-Atlantic regions.

Automobile refinishing operations across Indiana must already comply with the federal rule, so, for operations not currently covered by the state rule, extending the existing state rule to the entire state would only provide the option of meeting the emission limits through the use of a control system rather than the emission limits and require work practices for operations not currently covered by the state rule. LADCO estimates that extending the existing Indiana automobile refinishing rule to the entire state will reduce VOCs by approximately 25% from 2002 actual emissions or 2,528 tons per year. A review of data specific to Indiana indicates a reduction of approximately 9% beyond the reductions from the federal rule is more realistic. However, an informal survey of automobile refinishing operations in central Indiana conducted by IDEM in 2005 showed that the high-volume low-pressure (HVLP) equipment is already in use by most operations because of the increased efficiency, safety, and overall cost savings of using the newer technology. The operations contacted have also already implemented improved work practices.

In combination with similar efforts in the other MRPO states, extending the automobile refinishing rules to all Indiana counties will contribute to a regional control of VOC that will assist many counties to reach and maintain attainment for the 8-hour ozone standard. Upon completion, this rule will be submitted to U.S. EPA for approval into the SIP and, along with other regional and state measures, will guide air pollution control efforts in Indiana.

#### **Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Extending applicability of the automobile refinishing rules to the entire state.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? 40 CFR 59 contains VOC limits that are comparable to the VOC limits in Indiana's existing rule. However, extension of this alternative to the entire state would impose work practice standards that are not in federal law and would offer an option to use a control system rather than meet the VOC limits in order to reduce VOC emissions. In addition, U.S. EPA gives Indiana the flexibility to select appropriate alternatives in order to bring nonattainment areas back into attainment in a timely manner. This alternative controls volatile organic compounds which contribute to ground level ozone and visibility impairment in all counties of the state.
- If it is a federal requirement, is it different from federal law? No, it is not different from federal law, but is a means of complying with existing federal laws.
- If it is different, describe the differences. Not applicable.

Alternative 2. Extending applicability of the automobile refinishing rules to additional counties, but not the entire state.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? 40 CFR 59 contains VOC limits that are comparable to the VOC limits in Indiana's existing rule. However, extension of this alternative to the entire state would impose work practice standards that are not in federal law and would offer an option to use a control system rather than meet the VOC limits in order to reduce VOC emissions. In addition, U.S. EPA gives Indiana the flexibility to select appropriate alternatives in order to bring nonattainment areas back into attainment in a timely manner. This alternative controls volatile organic compounds which contribute to ground level ozone and visibility impairment in all counties of the state.
- If it is a federal requirement, is it different from federal law? No, it is not different from federal law, but is a means of complying with existing federal laws.
- If it is different, describe the differences. Not applicable.

Alternative 3. No rulemaking.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No
- Is this alternative imposed by federal law or is there a comparable federal law? No
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

#### **Applicable Federal Law**

40 CFR 50 (National Primary and Secondary Ambient Air Quality Standards), 40 CFR 81 (Designation of Areas for Air Quality Planning Purposes), and 40 CFR 59, Subpart B (National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings) are applicable federal laws impacting this rulemaking. 40 CFR 50 (amended on July 18, 1997 (62 FR 38856)) contains the standards for criteria pollutants. Ozone is considered a criteria pollutant and air pollution controls reduce emissions of volatile organic compounds (VOC) to reduce ozone formation. 40 CFR 81 (amended on April 30, 2004 (69 FR 23858)) lists the areas of the United States, specific to each state, that U.S. EPA has determined are not attaining the standards (nonattainment) for criteria pollutants such as ozone. 40 CFR 59, Subpart B, currently applies to manufacturers of coatings used in

automobile refinishing operations in Indiana. The state rule for automobile refinishing, [326 IAC 8-10](#), applies to manufacturers of the coatings as well as to the businesses that conduct the refinishing operation.

#### **Potential Fiscal Impact**

In analyzing costs for automobile refinishing rules in the MRPO states, LADCO used estimates from the Ozone Transport Commission (OTC) because the state rules, including Indiana's rule, are similar to the OTC Model Rule.

Potential Fiscal Impact of Alternative 1. Though the OTC estimated a cost of \$1,354 per ton of VOC reduced based on the use of HVLP spray guns and a gun cleaning system, Indiana's rule would not require this equipment but would allow its use as an alternative to meeting the specific VOC limits. In addition, the VOC limits in Indiana's existing rule are comparable to the existing federal rule, 40 CFR 59, that all Indiana automobile refinishers and manufacturers of the applicable coatings must comply with now. An informal survey of automobile refinishing operations in central Indiana in 2005 showed that the HVLP equipment is already in use by most operations because of the increased efficiency, safety, and overall cost savings of using the newer technology. IDEM believes this is true throughout the state and that most of these operations have probably also already begun using improved work practices comparable to those specified in the existing state rule to increase safety and maintain the equipment. Therefore, because automobile refinishers already must comply with the federal VOC limits and because most already use the type of control systems and work practices in the existing Indiana rule, IDEM anticipates that the fiscal impact of this alternative is minimal to the regulated community.

Potential Fiscal Impact of Alternative 2. This alternative is expected to have a minimal fiscal impact for the same reasons outlined under the Potential Fiscal Impact of Alternative 1.

Potential Fiscal Impact of Alternative 3. No fiscal impact.

#### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at [www.in.gov/idem/compliance/ctap/index.html](http://www.in.gov/idem/compliance/ctap/index.html)

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Sandra El-Yusuf  
IDEM Compliance and Technical Assistance Program  
OPPTA - MC60-04  
100 N. Senate Avenue  
W-041  
Indianapolis, IN 46204-2251  
(317) 232-8578  
[selyusuf@idem.in.gov](mailto:selyusuf@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Stacey Pfeffer  
IDEM Office of Voluntary Compliance  
OPPTA - MC60-04  
100 N. Senate Avenue, W-041  
Indianapolis, IN 46204-2251  
(317) 233-5624  
[spfeffer@idem.in.gov](mailto:spfeffer@idem.in.gov)

#### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for this rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Christine Pedersen, Rules Section, Office of Air Quality at (317) 233-6868 or (800) 451-6027 (in Indiana).

#### **STATUTORY AND REGULATORY REQUIREMENTS**

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as the case may be.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.

- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#06-603(APCB) Automobile Refinishing  
Christine Pedersen Mail Code 61-50  
c/o Administrative Assistant  
Rules Development Section  
Office of Air Quality  
Indiana Department of Environmental Management  
100 North Senate Avenue  
Indianapolis, Indiana 46204.

Hand delivered comments will be accepted by the IDEM receptionist on duty at the tenth floor reception desk, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-2342, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Section at (317) 233-0426.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by January 26, 2007.

Additional information regarding this action may be obtained from Christine Pedersen, Rules Development Section, Office of Air Quality, (317) 233-6868 or (800) 451-6027 (in Indiana).

Kathryn A. Watson, Chief  
Air Programs Branch  
Office of Air Quality

*Posted: 12/27/2006 by Legislative Services Agency*

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